IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 5536 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. Rahul S. Kate, for the Petitioner

CORAM : F.I. REBELLO,J.
DATED : 18th October,2005

P.C.

. It is submitted on behalf of the petitioner that while disposing of the Appeal the trial Court has practically disposed of the suit. The observations are purely prima facie. If it is the contention of the Respondents that the suit is not maintainable they will have to raise the plea whereupon the issue will have to be framed or the matter will have to be heard under the provisions of Order VIII Rule 2 of the Code of Civil Procedure. It is only in only in those circumstances will the Court proceed to hear the application and/or cast issues. Otherwise the Suit will have to proceed according to law.

(F.I. REBELLO J).